Unknown

From: Governor Sarah Palin (GOV sponsored) [governor@alaska.gov]
Sent: Friday, June 20, 2008 9:33 AM
To: Smith; Lynne M (GOV)
Subject: FW: WICHE Stat Alert

From: Stats [mailto:stats@wiche.edu]
Sent: Friday, June 20, 2008 7:28 AM
To: Palin, Sarah H (GOV)
Subject: WICHE Stat Alert

Stat Alert –June 20, 2008

A recently released issue brief from the Project on Student Debt has concluded that over one million students are enrolled at community colleges that do not participate in the federal student loan programs. Moreover, historically underrepresented minority students are more likely to be among those students without access to federal loans. The brief, Denied: Community College Students Lack Access to Affordable Loans, is available at (http://projectonstudentdebt.org/files/pub/denied.pdf).

The Western Interstate Commission for Higher Education (WICHE) strives to maintain excellent communication with the education policy and research communities. To subscribe or unsubscribe to the Policy Alerts and/or Stat Alerts distribution lists, please email your name, title, and organization to Cheryl Graves at cgraves@wiche.edu. These electronic distribution lists are used only to support WICHE-sponsored programs and to share resources about relevant issues in higher education policy and research. As an additional resource, WICHE maintains a Policy Publication Clearinghouse on the web at http://wiche.edu/policy/Clearinghouse, which includes past Policy Alerts and Stat Alerts, as well as other studies, reports, surveys, and policy briefs.

Unknown

From: Goode, Kelly C (GOV) [kelly.goode@alaska.gov]

Sent: Friday, June 20, 2008 2:19 PM

To: 'gov.palin@yahoo.com'; Nizich; Michael A (GOV); Mason; Janice L (GOV)

Subject: If you need me...

....I am going to take copies of the energy release and draft bill to the Howard Johnson for legislators. Many don't have access to a computer from the hotel.

If you need me, please email or call my cell at Privilege.

Kelly

Unknown

From: Ivy Frye [ivyfrye@yahoo.com]

Sent: Thursday, June 19, 2008 10:31 AM

To: Frank Bailey; Perry; Kristina Y (GOV); gov.palin@yahoo.com

Subject: Re: Fw: fuel tax

I'll send to McCain's camp after the presser or bill comes out. They're going to love it! And Holl definitely blog about it. More vp talk is never a bad thing, whether you're considering vp or not. say President Palin sounds better tho...

--- **On Thu, 6/19/08, gov.palin@yahoo.com** ***<gov.palin@yahoo.com>*** wrote:

> From: gov.palin@yahoo.com <gov.palin@yahoo.com>
> Subject: Fw: fuel tax
> To: "Frank Bailey" <ftb907@yahoo.com>, "Ivy personal" <ivyfrye@yahoo.com>, "Kris Perry" <kris.perry@alaska.gov>
> Date: Thursday, June 19, 2008, 10:17 AM
>
> Far out!
>
> -----Original Message-----
>
> From: gov.palin@yahoo.com
>
> Date: Thu, 19 Jun 2008 18:17:03
>
> To:"M Nizich" <mike.nizich@alaska.gov>
>
> Subject: Re: fuel tax
>
> Thank you!!!
>
> -----Original Message-----
>
> From: "Nizich, Michael A (GOV)" <mike.nizich@alaska.gov>
>
> Date: Thu, 19 Jun 2008 09:58:02
>
> To:gov.palin@yahoo.com
>
> Subject: fuel tax
>
> The lawyers are drafting the appropriate language to repeal the state fuel ta
>
> should have it around noon.

Unknown

From: haeg@alaska.net

Sent: Sunday, June 22, 2008 1:43 PM

To: Mauseth; Kym E (GOV); Yocom; Lauren J (GOV); Perez; Linda J (GOV); Mitchell; Lorraine E (GOV); Castle; Lillian K (GOV); Smith; Lynne M (GOV); Meyer; Marty A (MVA); Bavard; Mary Lou (GOV); Etheridge; Mary Stewart (GOV); Dau; Michael A (GOV); Fabrello; Michelle A (GOV); Crabb; Mike (GOV); Nizich; Michael A (GOV); molly_hawkins@gov.state.ak.us; Giang; Monica (GOV); nicole_carlson@legis.state.ak.us; Crowe; Pamela (GOV); Eckert; Patricia F (GOV); Torkelson; Peter J (GOV); Clary; Rachel J (GOV); Cockrell; Robert A (GOV); russ_kelly@gov.state.ak.us; Peacock; Sara J (GOV); Palin; Sarah H (GOV); Bishop; Samuel T (GOV); Clark; Scott M (GOV); Parnell; Sean R (GOV); sharon_busch@gov.state.ak.us; Leighow; Sharon W (GOV); Henderson; Shawn (GOV); James; Shelley A (GOV); Davis; Steven S (GOV); Hildebrand; Steven D (GOV); Cayce; Sunny C (DOA); Davis; Susan M (GOV); Mullen; Suzanne M (GOV); Fradley; Tara D (GOV); Kimlinger; Tom M (GOV); Lopez; Thomas M (GOV); Ibesate; Wen (LAA); Belknap; Will C (GOV)

Subject: Oral Arguments - Haeg v. State

Subject: Oral Arguments

Friends,

Please read and forward on the transcription of the oral arguments that was presented to the Alaska Court of Appeals and which resulted in the article in the Anchorage Daily News. If you wish to listen to this you can do so at: http://www.alaskastateofcorruption.com/

For those of you who could not attend it should help make it clear the injustice that happened – especially when the State's justification for guiding charges & the sentence they wanted was their proven perjury claiming the evidence was found where I guide instead of in the Game Management Unit in which the Wolf Control Program was being conducted. We appreciate everyone reading this and letting us know what you think.

Thanks again for everything.

David Haeg

Oral Arguments 5/8/08
Alaska Court of Appeals
Haeg v. State A-09455/A-10015

CLERK: Please rise. (GAVEL) The honorable judges of the Court of Appeals for the State of Alaska.
JUDGE: Please be seated.
CLERK: The Court of Appeals is now in session. (GAVEL)
JUDGE: We're here for argument in the case of David S. Haeg versus State of Alaska. -Uh- it's number 9455 and -uh- 10015. Mr. Haeg if you're ready you may begin. (00:27)
HAEG: May it please the Court - my name is David Haeg. Our constitution guarantees fundamental fairness. I did not receive fundamental fairness. The constitutional rights violated in my case are equal protection under the law, due process, double jeopardy, self-incrimination, nature and cause of accusation, compulsory process for witnesses, assistance of council, and unreasonable searches and seizures.
My case started out with the State claiming they found the evidence of wrongdoing in a place where it

wasn't found. In essence they – they moved the evidence. They maybe didn't move the evidence but they claimed it was found in a different game management unit. –Uh- the unit they claim it was found in was where I guide – was licensed to guide. The evidence was actually found in a game management unit in which a wolf control program was taking place -uh- in which I was participating. (01:39)
JUDGE: Well -um- I've – I've reviewed your testimony at the trial and -um- according to your testimony all 9 of the wolves were in fact taken outside the area where you had the permit.
HAEG: –Uh- I've read a lot of law. It makes -um- you're ... to make sure something's fair they have to follow certain things. Due process is one – one thing due process is the government is not allowed to make false claims - even if something's wrong. The risk is that you may be charged with the wrong crime or pay a punishment that you're not of - deserving. And that's what I'm claiming.
JUDGE: Ok.
HAEG: –Uh- it started out with they – they put the wrong game management unit on every search warrant that was used to seize all of my property that I use to provide a livelihood. We entered into plea negotiations with the State. I informed them that the evidence was not found where they say it was. After the plea negotiations broke down they persisted in claiming that the evidence was found where I guide - after they had been told and they taped me telling them this. Upon immediate cross-examination they admitted that the evidence was not found where I guide. It was all found in the game management unit in which the wolf control program was taking place. And the taint of that was proven at sentencing even though upon cross-examination the States admitted the wrong - the very judge, when I was sentenced, said the reason for my sentence is because 'most if not all the wolves were killed where you guide'. And that is a completely false statement. Not a single wolf was killed where I guide. -Um- the Supreme Court says that a nation – a free and strong nation cannot abide by convictions based on false testimony known to the State. And they knew that that testimony, to my judge and jury, was false. There is no doubt about that. (03:52)
When they seized my property - they seized my airplane, which is the primary means by which I provide for my family. I have a wife and 2 daughters. They did not give me notice of a hearing so I could contest or even ask to bond the property out. So immediately, before I was even charged, I could not make a living. I was not charged for 8 months. For 8 months I had no income. It was a year and a half before I went to trial and it was decided that I should – the property should be forfeited. On no -uh- warrant and no information and in no charge did they ever say that they wanted to forfeit my property. And the Supreme Court says that there can be no forfeiture or use as evidence when you did not have notice that they intended to forfeit it or they did not give you notice of a hearing 'within days if not hours' of seizing property that's used as the primary means to provide a livelihood. I was not a lawyer and I did not know I could contest. The State claims that no notice is needed. But it's in direct violation of U.S. and Alaska Supreme Court cases. (05:10)
JUDGE: Let – let me ask you – did you – did you talk to the judge about the forfeiture at your – at your sentencing hearing?
HAEG: Correct. That was the big item. But at that point we didn't know to prepare. We didn't know that we could bond the property out. We had no notice that – that - there was no official notice up until that point that the property would be sought to be forfeited. And I... The main thing is - is I was deprived of my income with no opportunity to contest because I didn't know for a very long length of time. And I asked the trooper that was seizing the property can I get my plane back? Cause I had clients coming in the day after they seized my plane and he says, "Never – you will never get your plane back." Well in commercial – in fishing boat seizures in Bristol Bay when you have a 2 week season if a trooper seizes your boat and sits on it for 2 weeks that trooper effectively cost you a whole seasons income. You may not know that you could go bond it out or even say, "hey it was somebody else". (06:17)
I'd like to point out that the statutes that the State used – I believe its 16.05.190 and 195 - I believe are unconstitutional, as written, because they require no prompt notice of a hearing -uh- when property is seized. – Uh- they require no prompt notice that the items may be forfeited. So it – essentially those statutes allow property to be seized with no – without due process. (06:43)
I also -uh- -uh- you know after that that happened there was a plea negotiations – we arrived at a plea agreement. That plea agreement was arrived at in August. For that plea agreement I had given a statement – 5-hour statement to the prosecution. It required me to give up guiding for at least one-year -um- and also to talk about a moose hunt. I took and gave up guiding for the year. I gave up a September and October and if you guys hunt you know moose seasons in September. That's what we primarily do and bear season is in October. In November the State filed charges that were in agreement with the plea agreement and then -uh- 5 business hours before we were supposed to fly to McGrath and present the plea agreement to the judge they filed an amended information changing the charges. And what that did is two things. It violated the plea agreement after there was enormous detrimental reliance put on it. Not only a 5-hour statement, which the State used, but my wife and I both of whom depend on guiding for our entire livelihood was gone. I got nothing. Um and we flew in all the – I mean it happened so close ... they changed the charges so close to the time at which it was supposed to happen that we'd already flown in witness from – witnesses from as far away as Illinois. We had bet the farm on this plea agreement. And after we'd bet the farm on it and the farm was gone they pull it away from us. And I asked, "how

can they do that" to my attorney. He said, "It's the way the games played." Well I don't think that's fair. I don't think anybody would think that's fair.
They then used ... Since I had agreed to talk about this moose issue for that plea agreement – after I was convicted on the harsher charges they said, "Well since Dave Haeg agreed for this moose issue to enhance his sentence, for these lesser charges, it means Dave Haeg agreed for these – this moose thing to enhance his sentence on these harsher charges." So not only did they break it that time later on down the line they use it. The Supreme Court says you can't break a paid for plea agreement or change charges without justification. You cannot increase the severity of charges or the number of charges without going before the Court and proving justification because it – they say basically that there's the likelihood of vindictive or the appearance of vindictive – vindictiveness if they do that. (09:26)
Ok then I told you that I gave a statement. After they changed the charges they used them not only for the original information that they filed in agreement for the plea negotiations -they used it for the amended information – my statements. They said Dave Haeg came in and said this this and this so we're you know – it essentially provided probable cause for a whole lot of charges that they had absolutely no evidence for. Evidence Rule 410 states, "To foster negotiations the rule provides that nothing that is said during plea-bargaining may be used against the accused in any proceeding, whether criminal, civil or administrative. Thus, the accused is free to discuss the case without resort to hypothetical statements of fact and without fear that a slip of the tongue may be devastating at a later trial or other proceeding." I was devastated by my own statement that I gave for a plea agreement that then vanished. They used the statement in all the informations. They used the statement to obtain their main witness against me at trial. They gave my statements to the media. It was published around the world – my statements admitting what we had done. And they used it to enhance my sentence.
I hired a gentleman named Brent Cole to represent me. I asked him about all this. He says, "You can't do anything". "Alls you can do is call Leaders boss." Leaders was the prosecutor. I said, "is that all I can do?" He said, "That's all you can do." (11:00)
I was so concerned after I hired my next attorney and went to trial and lost – I was so angry and so upset and so frustrated over all I had given for nothing that I subpoenaed Mr. Cole to my sentencing - I subpoenaed Mr. Cole to my sentencing. I bought him an airline ticket. I bought him a hotel room. I paid for his witness fees. And then Mr. Cole never showed up. My second attorney said, "There's nothing you can do about that Mr. Haeg." -Um- he said "go to trial". Well this is – he said that after we'd been to trial but when I first hired Mr. Robinson he said there's nothing he could do about what happened with Mr. Cole", "you have to move forward", "it's all water under the bridge". He says, "Go to trial." He says, "don't put on any evidence... I have a tactic that there's no subject matter jurisdiction." Well me being - fighting for my life and fighting for my family and everything I had built in my life – I said I'm goanna help Mr. Robinson create a – the best tactic – the best defense known to man. So I did my research. He said, "That for the subject matter jurisdiction to work you can't talk about the plea agreement or all that you did for it or admit to the Court that there was jurisdiction – subject matter jurisdiction". He said, "Don't bring up any of that Dave. Don't talk about it." Well I started looking at subject matter jurisdiction. AS 22.15.060 "Criminal jurisdiction – the District Court has jurisdiction (1) of the following crimes (A) a misdemeanor." I was charged with a misdemeanor in District Court. There was nothing else the District Court needed for jurisdiction. Why would Mr. Robinson have me hide all of the other constitutional violations in my case for a tactic that irrefutably would never work? (PAUSE) (12:59)
He then failed to enforce the subpoena against Mr. Cole. I was then given an illegal sentence. They revoked my lic – my guide license for 5 years. It could only be suspended. That revocation cost me to loose – lose numerous guiding camps that I pay leases on to the federal government. Because they said if it was suspended you still have a license and we'll allow you to keep the camps and it says revoked you have no license. Those camps must be removed. I removed those camps because of an illegal sentence that my own attorney never objected too. My own attorney says I cannot appeal the sentence. And the judge in my case told me that – never told me I could appeal the sentence. So I didn't know – I knew I was appealing the conviction but nobody told me I could appeal the sentence. And in fact my attorney told me I couldn't appeal the sentence. Mr. Robinson's points of appeal that he submitted to you prove what I'm telling you about the subject matter jurisdiction is true and about the other stuff. (14:04)
After I figured out ... after I became very unhappy with Mr. Robinson I hired Mr. Osterman, my third attorney. After a week of looking at all the evidence he said it was the biggest sellout he'd ever seen. And let me put ... back up a moment. Because of problems of my first two attorneys and what I felt - the lies told to me - I tape-recorded every single word I ever had with Mr. Osterman. Every word. From the day I called him up to hire him to the day I fired him. He said it was the biggest sellout he'd ever seen by attorneys. That I didn't know my attorneys were going to quote "load the dice so the State would always win". He said Robinson's no jurisdiction – no subject matter jurisdiction tactic was no good. We – me and him were goanna sue Mr. Cole and Mr. Robinson after my conviction was overturned. A month later Mr. Osterman ... I couldn't get a hold of him for a month and my deadline for my appeals coming up or for the brief to you – to this Court was coming up. A month later he told me that Mr. Robinson's tactics were good – about the subject matter jurisdiction. And when I asked him about all the other things that I had on those two attorneys he told me quote "I can't affect their lives and livelihoods". Well

I found caselaw in the U.S. Supreme Court and in Alaska Supreme Court that says if you can prove that a conflict of interest of your attorney – that he was representing interests in conflict with yours that you don't even have to prove prejudice because the likelihood of prejudice to a defendant whose attorney is representing interests in conflict with that defendant it's – it's – it's automatically ineffective assistance. There – there can be no – or there need be no proof of prejudice. Ok. (15:57)
In my appeal there've been what I feel are errors. I haven't been able to -uh- to stay my appeal so I can go post conviction relief, subpoena in the attorneys and prove exactly what went on. -Um- my illegal sentence was not fixed. I lost approximately 100,000 dollars in camps because of my illegal sentence not being fixed. (16:17)
JUDGE: Mr. Haeg on the – on the question of the illegality of your sentence I – on the – on the part about whether it should have been suspended or revoked I was just looking through the file. -Um- last August this Court issued an order saying that you could in fact go back to the District Court and ask for correction of the sentence. Did you – did you do that? (16:36)
HAEG: No I did not...
JUDGE: Ok.
HAEG: ...your honor. What happened is – is I asked this Court and this Court I believe said "although we could fix your sentence we will not due so until we decide your appeal" and the federal government said "camps better be gone". So the camps were gone and now it no longer matters. Although now if I got to go get my guide license - no longer will it just be unsuspended - I'll have to become an assistant guide for 5 years, become a registered guide for 13 years to become the master guide I used to be. So instead of a suspension it'll be a 18-year end of my guide career because of a revoked sentence. Or a revoked guide license. Ok. (17:15)
Some other things that I don't think are quit right. -Um- when Magistrate Woodmancy was assigned to rule on whether I could represent myself - he was involved in my original trial and he'd throw up his hands in – in frustration whenever we would try to assert my rights. So I tried to recuse him according to law. I submitted an affidavit, in the time required, under AS 22.20.022 and he never was removed. And that law – that's a law - says that if you want to recuse somebody and you submit an affidavit, which you did – without requiring proof and immediately that judge shall be recused. But not in my case. I don't know. (17:55)
I've - 2 years ago I started trying to get my property back because of the due process violations. It's now over 2 years since I started that. I don't really mean to – to harp but I had to tell the Courts that I was goanna go get my property before anyone would actually hear my – my request for my property. Everybody said – the District Courts said you had jurisdiction. You said they had jurisdiction. Even though you both had the orders. I didn't think that was fair. That was 2 years ago. I'm getting hungry. I mean we're done. We're – we can't go on forever. It's 4 years since this stuff started. -Um- the property hearing with Woodmancy – he made it constitutionally ineffective. The U.S. Supreme Court says when you're fighting for your property you can submit evidence, you can cross-examine adverse witnesses, you can present witnesses, and you can have oral arguments. Mr. Oster – Mr. Woodmancy says, "you can't submit evidence, you can't cross examine adverse witnesses, you can't present witnesses, and there will be no oral argument." Well when I read what the U.S. Supreme Court says I need to get my property back for a fair fight and the magistrate says, "no" I don't think that's fair. He made an adverse decision deciding I couldn't get all my property back. I then appealed that decision and it's been over a year since then. And another summers coming up. It's May. June and July – August September's when I make my livelihood. I need my property back. (19:30)
I would like to ask this Court for immediate return of all my property. And I'd like your honors to look at the de – the order of the 1st of January 2008 granting expedited consideration. That was in January. It's now May. And 2 more granting's for expedited consideration and expedited decision issued on March 6th 2008. I'd ask this Court to declare that 12.35.020 and 025 and AS 16.05.190 and 195 are unconstitutional as written because they don't provide for due process. I'd like a reversal of my convictions with prejudice because of vindictive and malicious prosecution and ineffective assistance of counsel. I would like this Court to recommend civil and criminal proceedings for those involved. And I would like a ruling on all issues from this Court so that -uh- there can be some justice or some resolution in my case. And I'm out of time and I'd - thank you very much unless you have any more questions? (20:40)
JUDGE: Thank you Mr. Haeg. Mr. Peterson?
PETERSON: May it please the Court my name is Andrew Peterson. I am an assistant attorney general at the office of Special Prosecutions. The – the claims set forth by Mr. Haeg in his brief can really be lumped into kind of two categories. There are those claims which should be brought as part of a post conviction relief application with trial court in McGrath and then there are claims which are being raised for the very first time in this appeal. I'm starting with the PCR issues. Mr. Haeg alleges a number of wrongs that he believes demonstrates ineffective assistance of counsel by his -uh- 2 prior trial attorneys. Issues -uh- committed by prosecutors, which they never objected to, and acts by the judge in that case, which his lawyers never objected to as well. (12:51)
This Court has held that ineffective assistance of counsel claims is not appropriate on direct appeal absent plain error and the problem here for Mr. Haeg is showing plain error. -Uh- in Barry this court held that it will seldom find ineffective assistance of counsel for the simple reason that there's no explanation in the record for the Court that tells the Court why the trial attorneys did what they did. Was it tactical decision or not? We don't have that

information before us. It's not in the record. His attorneys never challenged any of the issues that he raises. And therefore there was no hearings; there was nothing in the trial court that would give this Court an understanding of why his lawyers did what they did. (22:33)
Now Mr. Haeg has indicated in his briefing that he's been denied the right to file a post conviction relief application. In part that's true. He filed a PCR application in McGrath while he was still represented by counsel. But he filed it himself. He was told once he was determined that he could not be pro se he could re-file his post conviction relief application. He hasn't done so yet. And this Court should indicate that that is how he should address most of the wrongs that he's alleging. (23:02)
The second grouping really falls into waiver. -Um- these claims that he's raising for a first time on appeal. Monroe addresses those. He not only has to show plain error. He has to show substantial prejudice and that these errors he alleges are not tactical and he has to overcome the presumption that his trial attorneys were competent. (23:26)
Starting with the issues that he raises. The first one is the constitutionality of his property seizures. -Uh- he alleges that he was violated – he was denied due process because he wasn't told he had immediate right to a hearing to get his property back. That simply isn't true. He had immediate right under Criminal Rule 37(c) to seek the return of his property and the suppression of evidence, which is (c). -Uh- his property was seized subject to a valid -uh- validly executed search warrant. -Uh- Mr. Haeg was present during the seizure on March 29th of 04. Less then two weeks later he hired Mr. Cole. No motion was ever filed under Criminal Rule 37(c) to seek the return of his property. When he was ultimately arraigned on the original or the amended information Criminal Rule 12 takes like – it's 45 – he or his counsel has 45 days to file a motion. No motion was ever filed -uh- seeking the return of his property. The only motion that was filed -uh- was in April – actually I'm sorry July 8th of 2005 – a motion seeking to bond out his property. In the State's opposition the State indicated that it was seeking the forfeiture of the property under -uh- the applicable statutes and that it -uh- it objected to the return of the property and the Court denied his request for bonding the property out. Bottom line here is that Mr. Haeg wasn't denied due process. He had the right to seek -uh- the return of his property under Criminal Rule 37. He didn't ... he didn't veil himself that right and consequently he can't now come in before this Court and claim he's been denied due process. (25:09)
The next issue he - he raises is that of the alleged perjury by -uh- Trooper Gibbens. Trooper Gibbens stated in his affidavit for the search warrant that he saw sign of somebody -uh- committing act of same day airborneing of wolves in a subunit of 19 -uh- game management unit 19. And then he indicated he went back the next day - followed -uh- the tracks and found the - the wolf kills, which were outside the predator control zone. –Uh- Trooper Gibbens testified at trial consistent with what was in his affidavit and then upon cross-examination he corrected himself. He said no actually it wasn't in 19C it was in 19D but it was outside of the wolf control program. The importance here is anytime you go outside of this predator control program area - the boundary you are now committing the act of same day airborne. It doesn't matter if it was in 19D - 19C - where it was - as long as you're outside of that zone which allows you legally be same day airborning wolves you're committing the act of ... the crime of same day airborne. In his... As the Court's already pointed out not only did Trooper Gibbens testify at trial consistently with what was in the affidavit and correct his mistake but then Mr. Haeg testified at trial and admitted to killing the wolves outside of the predator control zone. He testified at sentencing and admitted again and then he submitted excerpts to this Court which indicate that he was outside of the -uh- the control zone so the State would argue there is no -um- there's no error here. He's waived this issue. It was never raised -um- but even if the Court was to consider whether or not there's plain error -uh- there's certainly no substantial prejudice to Mr. Haeg because he admitted committing the crime repeatedly. (27:04)
The next issue he raises is -uh- the State's violation of using his plea agreement statements against him. The – the State's first argument with respect to that would be that he's waived any right to raise this claim. His lawyers never raised it at – when he was arraigned -um- it was never raised prior to trial. Now Mr. Haeg indicated it – it was raised in a reply brief filed by his attorney prior to trial. It was actually raised in an affidavit attached to the reply brief by Mr. Haeg -um- which the State would argue doesn't preserve it for -uh- appeal. (27:46)
-Um- the second thing that Mr. Haeg overlooks in this case is that his codefendant Mr. Zellers also gave a statement -uh- to the prosecutor and the trooper in this case. His codefendant waived Evidence Rule 410 and his codefendant testified at trial. –Uh- there's no indication that any of the information used in the amended information -uh- or used to prosecute him at trial was information that could not have been gathered from Mr. Zellers. –Uh- so again the State would argue that there's – this issues been waived – that even if the Court were to consider whether or not there was plain error here it would be that there's no prejudice to Mr. Haeg because all that information came out – or could have come out through his codefendant. Mr. Haeg raises a number of claims with respect to judicial misconduct ... (28:37)
JUDGE: Before we leave this issue...
PETERSON: Certainly.
JUDGE: -um- Mr. Haeg also raised the issue of a detrimental reliance on the plea bargain and then the State changing the charges at the last moment.
PETERSON: Certainly your honor and your honor I would ar[gue] ... I would answer that by saying first of all his

attorney never raised any objection. We don't know why. It's not in the record before this Court. The only reas– the only way we are ever goanna know why is through post conviction relief application where his attorney can be deposed and we can ask why. Now through other proceedings I believe I know why there was no objection raised and why the plea negotiations broke down but that's not in the record before this Court. (29:16)
JUDGE: Ok.
PETERSON: The next area of -um- claims Mr. Haeg raises is a number of issues of alleged judicial misconduct. The State intends to rely on its pleadings for most of them. –Uh- the only issue that the State would like to briefly address is that of -uh- -um- the judge's failure to give the required jury instruction. Essentially in Mr. Haeg's briefing he claimed there was a required accomplice instruction that needed to be given -uh- in order to – it – it is required by law. –Uh- first of all the State would argue that he's waived this issue. He lawyer – his own lawyer never asked for this instruction. But second -uh- no accomplice instruction has been required in the State of Alaska since 1975. Long v. State sets that forth. And Mossberg - Mossberg v. State states that the decision to give an accomplice instruction is generally a tactical decision. Again this would indicate to the Court that -uh- the decisions not to give this instruction or at least not to ask for it is certainly an issue for PCR and not for a merit appeal. (30:27)
And finally Mr. Haeg -uh- raises – he - he asks for a number of forms of relief. I believe I have addressed most of those or all of them -uh- in my briefing and I'm goanna rely on the briefing with respect to everything except for - uh- his guides license issue. –Uh- he claims first that the Courts order is illegal because its - it calls for a revocation and not a suspension. Alaska Statute 8.54.720(f)(3) provides that the Court shall suspend a license for a minimum of 3 years or may permanently revoke the license. So that the Court has the option. Now in this case the Court stated that it would – it was revoking it for a period of 5 years. There's certainly no indication first off that that's an illegal sentence. And second -um- ... (31:21)
JUDGE: Doesn't it sound like Judge – Judge Murphy intended to suspend it for 5? Because the - your options are revoke perm – end of story – or suspend (talk over each other) ... Ok so...
JUDGE: On the judgment form there's only the word revoke. There's not the word suspend. It looks like Judge Murphy just kind of without thinking used the form and didn't strike out revoke and say suspended. (31:47)
PETERSON: And I don't disagree with that. But Mr. Haeg could have raised this issue as this Court has indicated with the trial court and I'm not certain ... I - I don't know that I would have objected to him asking to have ... (31:58)
JUDGE: Would you object now if it's modified to being a 5-year suspension? Shouldn't we modify it to that? (32:03)
PETERSON: Certainly if – if the Court feels it has the authority to modify it now despite him not originally raising it with the trial court.
JUDGE: Well it...
PETERSON: ... I don't have an objection...
JUDGE: ...Not if we told the trial court to do it. (32:12)
PETERSON: Now the only issue though... This brings me to the next issue whether it's a suspension or a revocation – it makes no difference. Occupational Licensing treats it the exact same. Because of the -uh- the 2-year periods in which guide licenses are valid for – a 5-year suspension or a 5-year revocation – at the end of that period Mr. Haeg is going to have to reapply for his guides license. I don't believe under either scenario he has to start it over as an assistant guide. He still has on the records experience to become a master guide again. He just needs to reapply for his license. (32:45)
JUDGE: Well...regardless of what consequence it might have he's entitled to have the judgment amended, right? (32:50)
PETERSON: Certainly.
JUDGE: Ok...
PETERSON: ... Right...
JUDGE: And then the consequences are not really before us at this point. (32:55)
PETERSON: Exactly. The – the last issue with respect to his guides license is the – his request to stay the revocation or if the Court's goanna change it – the suspension of his license. And the State would oppose that as it has in the past for a number of reasons. First of all if the Court -uh- were to stay the suspension of his license at this point in time -uh- the State would be entitled to bail conditions. Trial court has the option -uh- the authority and the broad discretion to issue bail conditions. One of the conditions the State would ask for is that he not be involved in any type of guiding activities pending his appeal. And there's good reason for that. –Uh- Title 8 regulates the activities of big game guides. They have the privilege of guiding in the State of Alaska. And one of the things that the State requires is not only that they not commit crimes while they're actually guiding somebody but title 8 requires they not commit any fish and game violations and in fact it authorizes prosecution under title 8 – if somebody commits any State or Federal -uh- wildlife -uh- violations – even the regulation ... and it doesn't even have to be a violation committed in the State of Alaska. And - the explanation's obvious. We trust them to follow the law when they're guiding somebody in the field for monetary gain. We don't want that same person then on their own to be going around committing fish and game crimes but at the same time think we're goanna

trust them when they're guiding. So the State would be asking for a bail condition prohibiting him from guiding if -uh- his revocation or suspension was stayed. In - with that I don't believe I have any additional comments unless the Court has any questions for me? (34:39)
JUDGE: Thank you Mr. Peterson. Mr. Haeg it is your time to respond to the arguments that - that Mr. Peterson has raised. (35:00)
HAEG: Ok -um- your honors Mr. Peterson says that -uh- if there even was plain error that this Court shouldn't do anything. And I think that – that the purpose of the Courts of Appeals are to fix plain error. Especially error that had an effect on the individual. And I think that has been -uh- shown over and over. (35:32)
Mr. Peterson also says that there was no need to give me notice of a hearing because the opportunity was available to me. And in essence Mr. Peterson makes the argument that -uh- it's my own fault I didn't know I could ask. Ok. And I'd like this Court to read the U.S. Supreme Court case of Memphis Light, Ga, and Water. It states, "The purpose of notice under the Due Process Clause is to apprise the affected individual of, and permit adequate preparation for, an impending 'hearing.' (PAUSE) Notice in a case of this kind does not comport with constitutional requirements when it does not advise the customer of the availability of a procedure for protesting a proposed termination." (PAUSE) –Uh- Mr. Peterson also goes on to kind of allude that since it was a criminal seizure that – that – that -uh- does away with that need. -Um- and that since it was available that's all that need be. I'd like this Court to also look at Fuentes versus Shevin - another U.S. Supreme Court case. "If an applicant for the writ perceives something - knows that he is dealing with an uneducated, uninformed consumer with little access to legal help and little familiarity with legal procedures, there may be a substantial possibility that a summary seizure of property -- however unwarranted -- may go unchallenged, and the applicant may feel that he can act with impunity. Appellant Fuentes says that in her case she was never told that she could recover the stove and stereo. And, of course, no hearing need be held unless the defendant, having received notice of his opportunity, takes advantage of it." I think it's pretty clear that there's an affirmative duty when the State comes and seizes property from someone who's not a lawyer that they have to tell them that you have the right to contest this before a judge and to have the State put on proof for taking away your means for putting food in your families mouth. –Uh- Perkins versus City of West Covina - Ninth Circuit - the U.S. Court of Appeals. "Here, the notice left at Perkins' home did not mention the availability of any procedure for protesting the seizure of his property, let alone the existence of a formal judicial procedure for obtaining return... The notice was 'skeletal', like the notice that the Memphis Light court found unconstitutional." This is very close to what Mr. Peterson's telling you right now. "The city charges Perkins with the responsibility for his own confusion. It cites his failure to persist and to unearth the proper remedy and the method of its invocation. The risk of erroneous deprivation, especially in the emergency situations often underlying search warrants, is substantial. By contrast, the administrative and fiscal burden of providing adequate written notice is slight." (38:55) They – alls they would have to do was write a little note on the search warrants. Said Mr. Haeg you have the opportunity to go before the judge contest it or maybe even just to ask to bond the stuff out until a jury determines you should be put out of business. I didn't get that. -Um- "The notice must inform the recipient of the procedure for contesting the seizure or retention of the property taken, along with any additional information required for initiating that procedure in the appropriate court." (39:25)
And I think I alluded to the – there's three cases - Baranof - I think the best one is fishing vessel American Eagle. It says when the property is used by the person in providing a livelihood that that notice must be given 'within days if not hours'. I was never given that notice. I hired an attorney two weeks after they took my airplane and my property and I had clients coming in the very next day. And I told the troopers that and the trooper said 'you're never going to get your property back'. That's the notice I received. (40:03)
"The idea of wage garnishment in advance of judgment, of trustee process, of wage attachment, or whatever it is called is a most inhuman doctrine. It compels the wage earner, trying to keep his family together, to be driven below the poverty level." That's me and my family. (PAUSE) (40:24)
Um- Mr. Peterson speaks about -uh- since -uh- during plea negotiations we -uh- said that we took wolves outside the area. I'd like to -uh- let the Court know that a week before we went on the Wolf Control Program I was at the Board of Game meeting in Fairbanks speaking with a sitting Board of Game member who sits today on the Board of Game. And that gentleman told me that with this first experimental wolf control program they had very few wolves. That they had to have more wolves or the program would be seen as ineffective. He then went on to say that if we took wolves outside the area to just mark them on our GPS as inside the area. And that is a person appointed by the Governor that sits on the Alaska Board of Game. And you may think that that was never brought up. That was in my statement that was given to the Court the trial court or the District Court for a plea agreement and that statement remains there. -Um- -uh- as far as the plea agreement I did everything I could to enforce that plea agreement and everybody – my own attorneys told me "there's nothing you can do". (41:40)
Mr. Peterson -uh- says that you should overlook the use of my own statements because they had my codefendants statement. My codefendant has testified under oath, along with his attorney, that he cooperated with the State because of my statement, which was given first. So that whole things a fruit of my statement. -Um- in other words everything the State got as far as knowledge of what went on - came from my statement. Whether it came from me or not - whether they went to someone else who felt compelled to – to talk that's -um- you know

that's just the way it was. (42:28)
As far as my revocation of a guide license compared to suspension. I want to know whose goanna give me my camps back? (PAUSE) I asked the Courts to fix something that should have been very clear and nobody did and I lost a hundred thousand dollars in camps. Who is going to give me my camps back? (42:48)
-Um- Mr. Peterson says that -uh- -uh- since we took wolves outside the area it makes no difference – that automatically turns it into a -uh- fish and game case. I applied for and received a wolf control permit that specifically said anyone participating is intentionally excluded from any fish and game violations. They still could have a violation but it wouldn't affect fish and game. The reason why it affected my guide license is because fish and game violations affect your guide license. I think it's quit the coincidence that the evidence that was found in the game management unit in which the Wolf Control Program was taking place all of a sudden appeared, according to the State, where I guide. I think that's a pretty significant fact. Along with the fact that I paid – we informed them of that and they persisted at trial and Mr. Gibbens – Trooper Gibbens just didn't remember – it was under cross examination. If you look at the – the – the statute for perjury someone can correct themselves up until the time at which it was – it – it is likely or shown that they are going to be found out. It was only when Mr. – Trooper Gibbens knew he had been found out and was being questioned on it he says, "I forgot - it was all in game management unit 19D and not where you guide." You - anybody here believe that if he wouldn't have been cross-examined that that would have ever came out? (PAUSE) It would not have come out. And the prejudice of that – the taint ... And see I never really knew how something could be tainted if you fixed it. But the taint of that is proven by the sentencing judge says, the reason for this severe sentence, even though you have no criminal history whatsoever, is because 'most if not all the wolves were taken when you guide'. And that is simply an absolute falsehood. So upon cross-examination there was no – the taint was still there. I want fair proceedings. I would like this court to give me fair proceedings. -Um- I had a closing thing I'd like to say but I'm out of time and thank you.
JUDGE: Ok thanks Mr. Haeg. Counsel. We will take the case under advisement and please stand - adjourned. (GAVEL) (45:30)

I, JACKIE Haeg, being first duly sworn depose and states as follows: I listened to and transcribed the 5/8/08 Oral Arguments before the Alaska Court of Appeals. All transcripts are true and accurate to the best of my knowledge and ability. I, JACKIE A. HAEG, certify under penalty of perjury that the foregoing is true to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Jackie A. Haeg

Unknown

From: Mason, Janice L (GOV) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=JLMASON]
Sent: Friday, June 20, 2008 4:58 PM
To: 'Sarah Palin'
Subject: Bill to be signed today - Fri. 06.20.08

Governor - We just got word that the AK Airlines Flight just landed and the Goldstreak should be in town by 6:00 p.m. Is this a good time for you for Lauren to come over to the House to have it signed or do you want it brought over at another time if your out for dinner -

P.S. - Don't burn Trig... the lucky duck - Janice

Unknown

From: Kreitzer, Annette E (DOA) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AEKREITZER]

Sent: Friday, June 20, 2008 4:48 PM

To: gov.sarah@yahoo.com

Subject: 465-5670 if you have a minute

This is in regard to email.
ak

Unknown

From: Ruaro, Randall P (GOV) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=RPRUARO]

Sent: Friday, June 20, 2008 10:56 AM

To: Leighow; Sharon W (GOV)

Cc: Goode; Kelly C (GOV); 'Sarah Palin'; Nizich; Michael A (GOV); Balash; Joseph R (GOV); Hughes; Rosanne D (GOV)

Subject: FW: ATTACHED: DRAFT 773-08-0057 bil RES REB bill (confidential) -- from Deborah Behr

Sharon:

LAW was able to get a bill draft done. It is being circulated now for final comments from agencies and any last minute edits. If there are none, and I should know by 1:00 pm and will call you to confirm either way, this is a bill draft that could be posted as an internet link and referenced in the press release.

Thanks,

Randy

From: vanPool, Patricia A (LAW)
Sent: Friday, June 20, 2008 10:49 AM
To: Ruaro, Randall P (GOV)
Cc: Behr, Deborah E (LAW)
Subject: ATTACHED: DRAFT 773-08-0057 bil RES REB bill (confidential) -- from Deborah Behr

ATTACHED: Draft Alaska Resource Rebate Program bill (pdf) -- from Deborah Behr.

Please reply to Deborah Behr at deborah.behr@alaska.gov or 907-465-2122. Thank you.

Pat VanPool (for Deborah Behr)
Department of Law - Juneau
Legislation & Regulations Section
Phone: (907) 465-3252
Fax: (907) 465-2520
Email: pat.vanpool@alaska.gov

Unknown

From: Leighow, Sharon W (GOV) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=SWLEIGHOW]

Sent: Friday, June 20, 2008 1:01 PM

To: Ruaro; Randall P (GOV); Nizich; Michael A (GOV); 'gov.sarah@yahoo.com'

Cc: Hughes; Rosanne D (GOV); Goode; Kelly C (GOV); Mason; Janice L (GOV)

Subject: press release - final

All,

Attached is the final press release with a link to the draft bill. I will wait to hear from you before releasing to the media.

Sharon Leighow
Deputy Press Secretary
Deputy Communications Director

(907) 269-7450 Anchorage
(907) 465-4031 Juneau
(907) 240-7943 cell

Unknown

From: Ruaro, Randall P (GOV) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=RPRUARO]

Sent: Friday, June 20, 2008 8:50 AM

To: Behr; Deborah E (LAW)

Cc: 'Sarah Palin'; Leighow; Sharon W (GOV); Nizich; Michael A (GOV); Balash; Joseph R (GOV); Goode; Kelly C (GOV); Tillery; Craig J (LAW)

Subject: RE: Main File server is down!

Deb:

Please let your DP person know that the Governor is waiting for LAW to complete its work today and that completion of that bill drafting assignment depends on LAW's DP person getting the system back up and running so you can produce the bill today.

Also, if you have a hard copy of the most recent draft and know the changes that need to be made, please have a secretary start retyping the bill in a new word doc. As I recall, the bill Privileged or Personal Material Redact Privileged or Per should not be more than 3-4 pages.

Randy

From: Behr, Deborah E (LAW)
Sent: Friday, June 20, 2008 8:46 AM
To: Ruaro, Randall P (GOV)
Subject: FW: Main File server is down!

FYI

Deborah E. Behr
Chief Assistant Attorney General and Regulations Attorney
Legislation and Regulations Section
Alaska Department of Law
(907)465-2122
Deborah.Behr@alaska.gov

From: Seng, David G (LAW)
Sent: Friday, June 20, 2008 8:04 AM
To: LAW ALL Juneau Department Staff
Subject: Main File server is down!

We are having a problem with the primary file server this morning.

At this time I do not have an ETR (Estimated Time of Resurrection)

Will update as information becomes available.

Dave Seng

Unknown

From: Leighow, Sharon W (GOV) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=SWLEIGHOW]

Sent: Friday, June 20, 2008 1:01 PM

To: Ruaro; Randall P (GOV); Nizich; Michael A (GOV); 'gov.sarah@yahoo.com'

Cc: Hughes; Rosanne D (GOV); Goode; Kelly C (GOV); Mason; Janice L (GOV)

Subject: press release - final

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Sharon Leighow
Deputy Press Secretary
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(907) 269-7450 Anchorage
(907) 465-4031 Juneau
(907) 240-7943 cell

Unknown

From: Mason, Janice L (GOV) [/O=SOA/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=JLMASON]

Sent: Friday, June 20, 2008 6:32 PM

To: 'Sarah Palin'

Cc: Perry; Kristina Y (GOV); Nizich; Michael A (GOV)

Subject: Schedule

Governor -

I have received word that for Thursday, 06.26.08 (road trip) - DPS has a Turbo Prop - Single Engine Plane (Caravan) - 2 pilots that is at your disposal. You have flown in this same aircraft last year when you flew into Skagway. It is an 8 seater.

They can pick you up on Thursday, 06.26.08 at the Wasilla Airstrip at approx. 11:15 a.m. for Soldotna. This is a 45 minute flight. You would land 1 mile from the Soldotna Sport Center.

The Soldotna to Homer Flight time is 20 minutes. Then from Homer back to Wasilla is a 1 hour and 15 minute flight time. This would take out the 10-12 hour drive time that you would be on the road. Something for you to consider - Thanks, Janice